

## **REMARKS**

Upon entry of the foregoing Amendment, claims 1-6, 9-13, 15-18, and 20-26 are pending in the present application. Claims 1, 6, 11, 13, 18, 20-23, and 26 are currently amended. Claims 8 and 14 are cancelled. Support for the present Amendment is provided throughout the as-filed Specification. Thus, no new matter has been added. In view of the foregoing Amendment and following Remarks, allowance of all the pending claims is requested.

### **NON-STATUTORY DOUBLE PATENTING REJECTION**

The Examiner has rejected claim 1 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claim 1 of U.S. Patent No. 6,430,712 to Lewis. Upon the indication of otherwise allowable subject matter and to the extent necessary, Applicant will file a Terminal Disclaimer.

### **REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH**

The Examiner has rejected claims 1, 6, 8, 11, 13-14, 18, 20-23, and 26 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant traverses this rejection.

The Examiner alleges that the terms "a desired state" and "undesirable" are indefinite because they are not defined by the claim and the specification does not provide a standard for ascertaining the requisite degree. Applicant respectfully disagrees, as a person having ordinary skill in the art would understand the meaning of a "desired" or "undesirable" state, particularly in view of the specification. The claimed invention provides guaranteed levels of service, which may be achieved through quantifying various network parameters (See Specification at pg. 2, lines 13-21; pg. 19 lines 5-12). As is made clear by the written description, what constitutes an "undesirable" or "desired" state is context dependent and accounts for various parameters mapped into a particular service. Breadth of a claim is not to be equated with indefiniteness, such that it is not necessary to establish with exactness the degree to which a service state must be "desirable" in or "undesirable" order to meet the requirements of § 112, second paragraph. See MPEP § 2173.04. Rather,

the claim must meet threshold requirements of clarity and precision, which Applicant respectfully submits are met by the claim as currently presented. Accordingly, Applicant requests that the Examiner withdraw this rejection.

The Examiner submits that the term "relative to the respective aspect of operation" is a relative term which renders the claim indefinite. Applicant respectfully disagrees with this assessment, as a person having ordinary skill in the art would readily appreciate the scope of the claims based on their plain meaning. For instance, claim 1 indicates that each monitoring agent monitors a respective aspect of network operation. The aspect of network operation is therefore monitored in order to detect one or more events. The claim plainly establishes that events are "relative to" the respective monitored aspect of operation. As there is no requirement to establish with exactness the degree to which an event is "relative to" the monitored aspect, the claim meets the requirements of clarity and definiteness required by § 112, second paragraph. Applicant submits that the claims are definite and requests that the Examiner withdraw this rejection.

#### **REJECTIONS UNDER 35 U.S.C. § 102**

The Examiner has rejected claims 1-6, 8-18, and 20-26 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,646,864 to Whitney ("Whitney"). Applicant traverses this rejection for at least the reason that Whitney fails to disclose all the features of the claimed invention. For at least this reason, the rejection is improper and must be withdrawn.

Referring to claim 1, Whitney does not disclose at least the feature of an alarm correlation agent that can "autonomously establish a desired state of the service when the current state is undesirable." Whitney simply identifies the location of faults once they have occurred and relies upon human intervention to correct the fault (col. 1 lines 44-50, "correlation of alarm signals...allow[s] maintenance engineers to identify necessary repairs and prioritise them"; col. 7 lines 34-41, "a positive correlation report...enables network operators to prioritise repair work and to respond to customer queries"). Whitney requires human intervention to remedy a fault.

In contrast, the claimed invention is directed toward a computer-implemented system that autonomously establishes the desired state of the service. According to

Whitney, a human or user is required to correct the fault. Because Whitney fails to disclose, teach or suggest at least this feature of the claimed invention, the rejection of claim 1 is improper and must be withdrawn.

Claims 6, 11, 13, 18, 21, 22, 23, and 26 include features similar to those set forth in claim 1. Claims 2-5, 9-10, 12, 15-17, 20, and 24-25 depend from and add features to one of claims 1, 6, 11, 13, 18, and 23. Thus, the rejections of these claims are likewise improper and must be withdrawn for at least the same reasons.

## **CONCLUSION**

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

By: 

Rick A. Toering  
Registration No. 43,195

PILLSBURY WINTHROP SHAW PITTMAN LLP  
P.O. Box 10500  
McLean, Virginia 22102  
Main: 703-770-7900  
Fax: 703-770-7901